IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

CRIMINAL APPEAL No. 1846 of 2001

Raj Kumar Gupta S/o Sri Amarnath Gupta
R/o Laksar Bazar, P.S. Laksar,
District, Hardwar. ….Revisionist

Versus

1. State of Uttaranchal
2. Satya Prakash Gupta S/o Kanhaya Lal Gupta
   R/o 8-6A, Palam Puri, P.S. Uttam Nagar, New Delhi.
3. Rajeev Kumar Gupta S/o Sri Satya Prakash Gupta
   R/o 1/165 Mohalla Lalita Park, Laxmi Nagar,
   P.S. Sharkar Pur, New Delhi
4. Pradeep Kumar Gupta S/o Sri Satya Prakash Gupta
   R/o Flat No. A-2 Block 76 Wazir Pur, Railway Colony,
   Ashok Vihar, Phase – III, P.S. Ashok Vihar, New Delhi

…. Opposite Parties

Dated: April 12, 2007

Sri K.S. Verma, learned counsel for the revisionist
Learned AGA for the State

HON. DHARAM VEER, J.

This leave to appeal and criminal appeal was filed by the appellant Raj Kumar Gupta against the judgment and order dated 28.09.2001 passed by the Judicial Magistrate, 1st Class, Roorkee, District Hardwar in Case No. 97 of 2001, Raj Kumar Vs. Satya Prakash Gupta & Ors., acquitting respondent nos. 2, 3 and 4 under Sections 406, 420 and 120 B. I.P.C.

The appellant in the present case has filed a Complaint Case No. 97 of 2001 in the court of Additional Civil Judge (Senior Division)/ A.C.J.M., Roorkee, District Hardwar against respondent nos. 2, 3 and 4 under Section 406, 420 and 120B I.P.C.

As per the case of the complainant, the brother of the complainant Ram Kumar Gupta and his wife and two daughters died in the rail accident on 26.11.1998. After the accident, the son of the complainant's brother, namely, Shubham is living with the complainant.

As per the prosecution case, on 06.12.1998, when *Tehrvi* of deceased was being performed, the accused persons (respondent Nos. 2 to 4 herein) took 1 lac rupees and ornaments worth Rs. 58,000/- and assured that they will prepare F.D.R. in the name of Shubham. Respondent no. 2 is the maternal grand-father of Shubham and respondent nos. 3 and 4 are his maternal uncles. It has also come in the evidence that respondent no. 2, Satya Prakash Gupta has filed a suit for guardianship for Subham and that is pending in the court of District Judge, Hardwar.

After considering the evidence on record, the Judicial Magistrate 1st Class, Roorkee has acquitted respondent nos. 2, 3 and 4 for the charges levelled against them under Section 406, 420 and 120B I.P.C. by order dated 28.09.2001

Against the said order, the complainant has filed this leave to appeal before this Court.

Mr. Raj Kumar Verma, Advocate holding brief of Shri K.S. Verma, Advocate is present on behalf of the appellant. He has stated at bar that he does not want to press the leave to appeal application and the appeal.

I have heard learned counsel for the parties and have gone through the record of the case. I do not find any irregularity, illegality or impropriety in the judgment and order of the court below. Therefore, no interference is called for and the leave to appeal is liable to be dismissed.

Accordingly, the leave to appeal application is dismissed. Consequently, the appeal is hereby dismissed.

(Dharam Veer, J.)

12.04.2007
VKS